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Published in:
Journal of Ethnic and Migration Studies

DOI (link to publication from Publisher):
[10.1080/1369183X.2019.1614437](https://doi.org/10.1080/1369183X.2019.1614437)

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Publication date:
2021

Document Version
Accepted author manuscript, peer reviewed version

[Link to publication from Aalborg University](#)

Citation for published version (APA):
Jensen, K. K., & Nielsen, L. (2021). Reconciling automatic and conditional immigrant naturalisation. *Journal of Ethnic and Migration Studies*, 47(1), 208-226. <https://doi.org/10.1080/1369183X.2019.1614437>

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Reconciling Automatic and Conditional Immigrant Naturalisation

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Acknowledgements:

We are grateful to the reviewers as well as Jens Damgaard Thaysen, Andreas Albertsen, David Vestergaard Axelsen, Per Mouritsen, Søren Flinch Midtgaard and Kasper Lippert-Rasmussen for helpful comments on earlier versions of this paper.

RECONCILING AUTOMATIC AND CONDITIONAL IMMIGRANT NATURALISATION

ABSTRACT: Discussions within political theory on naturalisation tend to focus on whether or not it is reasonable and fair to make naturalisation conditional on meeting integration requirements. Those who emphasize the right of long-term immigrants to be included as equal citizens argue that automatic naturalisation is preferable, while those who put emphasis on the state's legitimate interest in promoting the conditions for a reasonably just society tend to argue that conditional naturalisation is normatively preferable. However, most participating in this debate seem to agree that naturalisation rules must balance these different concerns. In this paper, we argue that the conflicting views on each side of the automatic-conditional divide can be reconciled by introducing the model of discounting-conditional naturalisation. We suggest that a practice in which integration requirements are gradually relaxed over time can in fact sufficiently accommodate those normative considerations that are in conflict under the current practices.

KEY WORDS: Naturalisation; integration requirements; democracy; social cohesion; respect; social ties; contribution

INTRODUCTION

Since the mid- to late 1990s, Western states have increasingly conditioned access to permanent residence and citizenship on meeting certain requirements regarding employment, language proficiency, and knowledge of the host country (Goodman,

2014). Most Western countries now use integration requirements in one form or another to actively shape immigrants into good citizens or measure desert. At least initially, the political intention behind these measures was to promote the integration and participation of immigrants. Yet in some national contexts, such as the Danish or Austrian where the requirements have become particularly demanding (if not onerous), the intent is now as much about civic selection, i.e., screening out those who are undeserving (or even deterring them from ever entering the country), as it is about civic integration (Jensen, Fernández and Brochmann, 2017; Perchinig, 2010).

Discussions within political theory on immigrant naturalisation tend to focus on whether it is reasonable and fair to block automatic access to citizenship – be it voluntary or mandatory – for long-term resident immigrants and refugees. That is, is it reasonable and fair to make naturalisation conditional on fulfilling requirements regarding employment, income, language, and/or knowledge of society, as most Western countries do today? The main arguments in this debate point either to long-term immigrants having a right to naturalise *or* long-term immigrants having a duty to adapt. Andrew Mason concisely points to how this debate speaks to a tension within justice ‘between a long-term resident’s just entitlement to citizenship and promoting the conditions for a reasonably just society’ (Mason, 2014: 145). He further argues that the injustice involved in making citizenship conditional on certain integration requirements ‘becomes less objectionable as a result of occurring within a process that aims at inclusion’ (Mason, 2014: 148). If one accepts both right-based and duty-based arguments as justified, the challenge is to find a policy approach that can alleviate this tension and incorporate integration requirements into an inclusionary process.

Indeed, most accept that there are good arguments both for making immigrant naturalisation automatic and for requiring some form and degree of

adaptation. However, neither automatic nor conditional naturalisation offers a solution for how to incorporate integration requirements into an inherently inclusionary naturalisation process. Consequently, the debate finds itself in a deadlock. We argue that this is unnecessary; that it is possible to rethink the practice of naturalisation and embed integration requirements in a process that aims at inclusion. A practice in which integration requirements are gradually relaxed over time before finally being lifted is a solution that actually confronts and partially alleviates the aforementioned tension within justice in contrast to the practices of automatic and conditional naturalisation. We term this approach *discounting-conditional naturalisation* because the longer an immigrant has been resident, the weaker the integration requirements are for accessing permanent residence or citizenship.

David Owen suggests something similar when he argues that ‘it is plausible that liberal egalitarians may accept accelerated access to national citizenship for those who can pass a citizenship test, what they reject is that you can make access to the legal status of citizenship *fully* conditional on passing a test’ (Owen, 2013: 330). However, as we argue, this is only because liberal egalitarians also (partially) accept duty-based arguments as those liberal nationalists tend to present. Hence, accelerated access to those who can pass certain tests is a solution that seeks a reasonable middle ground by balancing rights-based and duty-based arguments. In this paper, we develop the blueprint for a version of such a naturalisation policy – discounting-conditional naturalisation – and argue that it nicely balances the generally accepted rights-based and duty-based arguments in the literature.

Before moving on, the reader should note four things. Firstly, in this paper we focus only on immigrant naturalisation (for those immigrating legally), not other types or questions of citizenship acquisition. Consequently, when extrapolating

normative concerns from work that goes beyond immigrant naturalisation, such as birthright citizenship or illegal immigrants, it is only for the purpose of applying those concerns to immigrant naturalisation. Secondly, we distinguish between *the legal act* of naturalisation and *the process of* naturalisation. Regarding the latter, we understand naturalisation to be a process that begins at the point of taking lawful residence and ends with citizenship being granted (i.e., the legal act of naturalisation). Hence, because permanent residence is a necessary step towards receiving citizenship for most immigrants (e.g., there are often exemptions for persons with certain close ethnic or cultural ties), we take it to be a part of the naturalisation process and, thus, naturalisation policy. The model of naturalisation that we propose says something about how integration requirements ought to be incorporated into the naturalisation *process* and, thus, relates to the legal status of permanent residence as well as citizenship. When using the term *naturalisation* we refer to the process of naturalisation unless mentioned otherwise. Thirdly, we remain agnostic about the different normative arguments presented in the paper. Our aim is only to show that there is a common normative ground among political theorists and that our proposed model is a better fit for the generally accepted arguments in the literature. Finally, we are not discussing which kinds of naturalisation requirements are reasonable (e.g., a language requirement or a knowledge requirement) nor what is a reasonable sequence or (initial) demandingness of different integration requirements. Instead, we discuss the general or basic approach states adopt for the use of integration requirements in the naturalisation process. That is, when is it reasonable to use naturalisation requirements to guard access to full, equal citizenship?

The paper begins by describing the difference between automatic and conditional naturalisation as well as how naturalisation policies in Western

democracies have developed in recent decades. We then describe two generally accepted theses – the inclusion thesis and the adaptation thesis – and the variety of more specific normative reasons in the literature underlying these general theses, which, although widely accepted, seem to drive theorists to opposite conclusions on the appropriate model for naturalisation. Finally, we argue that taken together these ecumenical theses, and the normative reasons on which they are grounded, are more favourable towards discounting-conditional naturalisation than automatic or conditional naturalisation.

AUTOMATIC AND CONDITIONAL NATURALISATION

Arguably, permanent residence is more important than citizenship in terms of the rights gained. Moving from temporary to permanent residence means that one is now mostly free from immigration control and can live and work in a country without restrictions. Often, however, permanent residence can be revoked if a person is convicted of a serious crime or resides outside the country for a long period. Citizenship typically grants one the right to vote and be a candidate in national elections, freedom to reside outside the country indefinitely, more security from deportation, it carries socio-economic benefits as well as a basis for social integration and identification with the national community (Bloemraad, 2017; Peters and Vink, 2016; Hainmueller, Hangartner, and Pietrantuono, 2015).

Even though citizenship may be less important than permanent residence for immigrants, both are perceived by many political actors to hold significant potential for shaping how immigrants end up participating in and identifying with the national community. There are two notions about motivation to integrate at play here, which often compete in national debates (Jensen, Fernández

and Brochmann, 2017; Gerdes, Faist and Rieple, 2007). One sees these legal statuses as prerequisites for creating a strong motivation to integrate because they confer (symbolic) recognition of belonging, security and equal rights. The second notion emphasizes that motivation to integrate is most effectively fostered by making these valuable legal statuses a prize for integration.

This difference between seeing permanent residence and citizenship as a prerequisite or a prize for integration aligns somewhat with the basic dispute in the literature on naturalisation requirements. One side argues that immigrants be granted automatic access to permanent residence and citizenship, either as a voluntary option by simple declaration or as an obligation¹ (here automatic refers to both of these approaches), after a reasonable number of years of legal residence – which may be extended if one is convicted of certain crimes. Others defend making naturalisation conditional on fulfilling certain integration requirements regarding language, knowledge, employment etc. We shall refer to these as automatic naturalisation and conditional naturalisation, respectively. The difference pertains to whether the applicant must meet certain requirements besides legal residence in order to receive permanent residence and citizenship.

Importantly, automatic naturalisation is not the same as unconditional naturalisation, but instead a practice wherein the requirements can be fulfilled with minimal effort. Hence, what is normally thought of as automatic naturalisation is really more accurately termed automatic conditional naturalisation since there are conditions to be fulfilled; it is just that one will fulfil them in time by simply refraining from acting (in any particular way) before one can apply or is given

¹ De Schutter and Ypi (2015) argue for making naturalisation mandatory.

citizenship. Conversely, a policy of non-automatic conditional naturalisation entails that applicants, in order to receive permanent residence and citizenship, must meet additional requirements – on top of length of legal residence – that require a considerable effort to fulfil, such as participating in an integration program, learning the language, getting a job or learning about the norms, history, and institutions of the society in question.

A policy of automatic naturalisation seems rather lost on the contemporary imagination of Western governments. Conditional naturalisation is the starting point for the vast majority of political debates, which then proceed to consider the type of requirements that are fair and how demanding they should be. The use of integration requirements in itself is seldom contested, which might be surprising since most Western countries had few, if any, requirements aside from length of stay before the reinvigoration of naturalisation policy in the mid- to late 1990s (Goodman, 2014). Since then, there has been a strong convergence towards making permanent residence and citizenship conditional on new, formalized requirements regarding employment, income, language and knowledge – in tandem with the increased salience of immigration and integration issues in national debates. These policy instruments have been grouped under the term ‘civic integration policies’ (Goodman, 2014; Joppke, 2007). The Netherlands was the first country to start formalizing naturalisation requirements in the mid-1990s (Entzinger, 2006), but soon after, and especially through the 2000s, most other West European states followed suit. Today, most West European states have adopted formalized versions of one or more of the above-mentioned integration requirements, albeit with variations in demandingness and where they are placed in the naturalisation process. Denmark, to take on example, is arguably the state that has implemented the most demanding requirements according

to the CIVIX index (Goodman 2014). Acquiring citizenship requires eight (if refugee) or nine years of legal residence, passing a language test at the B2 level, passing a citizenship test, having received unemployment benefits for no more than half a year within the last five years, and not having received unemployment benefits within the last year. Permanent residence requires eight years of stay (which can be reduced to four years if one is able to meet additional requirements similar to those guarding citizenship), passing a language test at the B1 level, not having received certain unemployment benefits within the last four years, being employed, and having been employed for at least three and a half of the last four years. Analyses indicate that only around a third of refugees in Denmark can accommodate the citizenship requirements after 12 years of residence and that poorly educated, female, and elderly immigrants are much less likely to reach such a state (Bech et al., 2017).

Ireland and Sweden are, to an extent, exemptions to this general trend. In Sweden, immigrants can receive citizenship if they have five years of legal residence, a permanent residence permit and no serious criminal record. Before 2016, refugees and family migrants even received a permanent residence permit automatically at entry. Since then, however, a temporary residence permit has been introduced, which can be converted to a permanent residence permit after three years of stay if one can support oneself. In Ireland, refugees only need three years of legal residence and no serious criminal record in order to receive citizenship. Other immigrants need five years of legal residence and must not have received state support in the three years before the application. Moreover, several countries (e.g. USA and Canada) offer immediate permanent residence in the form of green cards, and EU citizens enjoy free movement and permanent residence rights from day one. Consequently, we do still find some naturalisation policies that have strong elements

of automatic naturalisation. No countries, however, have adopted the model of discounting-conditional naturalisation that we propose.

Before we flesh out the model for discounting-conditional naturalisation, it will be useful to attend to the normative arguments we have at our disposal when choosing our approach to naturalisation. As we shall come to see, the discussion of naturalisation revolves around a pool of normative reasons, the relevance of which theorists generally accept, and the decision to defend either automatic or conditional naturalisation is caused by attaching different weightings to these reasons. As insightfully captured by Rogers Smith, ‘political debates in most states will probably include appeals to some version of all these positions and more’ (Smith, 2017: 824). As we shall propose, this weighing of reasons against each other is less necessary than normally believed, since our model for discounting-conditional naturalisation elegantly complies with the complete system of normative reasons. The next section presents an overview of the dominant arguments, which seem to point us in both directions. However, if we accept, as most do, that there are both good rights-based arguments for automatic naturalisation and good duty-based arguments for conditional naturalisation, we are left in a deadlock. We can leave this deadlock, however, by choosing the third approach we suggest, i.e., discounting-conditional naturalisation.

THE ARGUMENTS

Although questions related to the status of citizenship are certainly a hot-button topic in academia as well as in politics, some consensus has emerged among political theorists on the acceptance of the following two simple theses:

1. The inclusion thesis: *Immigrants who are lawful, long-term residents in a state territory should be naturally included as citizens of that state.*

2. The adaptation thesis: *Immigrants who are lawful, long-term residents in a state territory should make an effort to adapt themselves to the social and political circumstances of that state.*

Despite disagreement on *why* long-term immigrants should naturally be included as citizens and on what that entails morally and politically, the vast majority of theorists accept the inclusion thesis as it stands. Similarly, most theorists accept some version of the adaptation thesis, and typically based on some version of duties stemming from the importance of social cohesion. Thus, we shall not question the inclusion thesis nor the adaptation thesis here. Rather, we shall treat them both as central assumptions of our argument. The root of disagreement in the literature about naturalisation is that the inclusion thesis and the adaptation thesis come apart in that they figure as stepping stones for two separate and allegedly incompatible arguments for models of naturalisation. One line of argument (left-hand side of table 1) emphasizes the inclusion thesis and proceeds by elaborating reasons for accepting it, upon which it concludes in favour of automatic naturalisation. The other line of argument stresses the importance of the adaptation thesis, proceeds by establishing reasons to support that, and then concludes in favour of conditional naturalisation.

[TABLE 1 HERE]

Since there is agreement about the inclusion and the adaptation thesis, we shall not discuss Premise (1) in the two arguments. We simply assume that they are both true. Instead, our analysis considers Premises (2) and (3) of both arguments – that is, first, the reasons why we should accept the two theses, and what that implies for the process of naturalisation. In this section, we flesh out the different arguments that have been unfolded to fill out Premise (2) in both arguments. The inclusion thesis is grounded in a rights-based foundation, while the adaptation thesis is grounded in a duty-based foundation. These two grounds are non-exclusive in that it is both possible and very often reasonable to hold them both in some form. Yet to understand what kind of reasoning theorists apply to uphold the inclusion thesis and the adaptation thesis, it is useful to distinguish between these two types of foundations. Our ultimate aim here is not to dispute any of the reasons grounding the two theses, but rather to show that the wide pool of reasons employed in both lines of argument do not commit one to any of the suggested implications expressed in Premise (3). Rather, we argue, the wide range of reasons taken together point to a mid-fare solution that involves elements of both automatic and conditional naturalisation. This is the model we call discounting-conditional naturalisation.

In the following, we present the most common reasons that political theorists discuss: three rights-based arguments (democratic inclusion, respect and special ties) that point towards automatic naturalisation and two duty-based arguments (contribution and social cohesion) that point towards conditional naturalisation.

Democratic inclusion

One prominent argument for immigrants' right to citizenship is the argument of democratic inclusion. Dahl famously defended his principle of full inclusion, from

which it follows that all adults who are habitually residents within a territory are entitled to full inclusion in the political association of that territory, because they are ‘subject to the binding collective decisions of the association’ (Dahl, 1989: 129). For Dahl, it is a natural implication of democracy that adult habitants within the democratic territory have a say in important matters, and thus seemingly we can deduce the right of long-term immigrants almost from the conceptual meaning of democracy. Walzer proceeds along the same line in his statement that ‘No democratic state can tolerate the establishment of a fixed status between citizen and foreigner’ as it would amount to political tyranny (Walzer, 1983: 60). Like Dahl, Walzer here refers to the inherent inclusiveness of democracy as a share of collective political power. Rubio Marin and Carens further argue that democratic inclusion commits us to automatic naturalisation because the democratic majority lacks moral entitlement to exclude long-term residents from participating in the political community based on cultural norms regarding knowledge and behaviour (Rubio Marin, 2000; Carens, 2005; 2013). Miller and Hampshire, although they reject the claim that democratic states are morally entitled to grant citizenship automatically for other reasons, also accept that the logic of the democratic state points towards inclusion (Hampshire, 2010; Miller, 2008). Miller even argues that it intuitively appears to be *morally wrong* if someone residing habitually in a territory does not have their interest taken into account (Miller, 2008).

Most recently, De Schutter and Ypi provide even further moral justification for the democratic inclusion argument by unfolding it within the framework of fairness and anti-discrimination (De Schutter and Ypi, 2015). They claim, alongside Miller and Walzer, that not including long-term immigrants in the citizenry ‘implicitly legitimizes laws that do not treat everyone as equal and threatens

to absolve the apartheid-like condition of those who are not offered an equal say in the making of laws to which they are subjected' (De Schutter and Ypi, 2015: 244). Hence, from this line of argument, not only does democracy require inclusion of immigrants, as Dahl emphasized, and not only does it seem intuitively wrong to abolish this democratic requirement, as Miller noted; it is moreover simply an instance of unjust discrimination to host long-term immigrants without granting them citizenship.

The tenet of the democratic inclusion argument holds that immigrants have a right to citizenship because it is importantly undemocratic to exclude them from the political community, and undemocratic political arrangements are morally problematic. Hence, the argument from democratic inclusion provides a weighty *pro tanto* reason why long-term immigrants should receive citizenship automatically in their country of long-term residence. However, it is possible to decouple political rights such as voting and running for office from citizenship. In this case, democratic inclusion could be realised without naturalisation.² Yet as long as such rights remain tied to citizenship, democratic inclusion remains a forceful argument for automatic naturalisation.

Respect

Another argument that feeds the rights-based premise claims that we owe long-term immigrants the status of citizenship out of our duty of respect for others. This argument builds on a line of reasoning from theorists such as Axel Honneth and Nancy Fraser who, although in slightly different ways, both defend the importance of

² Beckman (2006) argues from democratic inclusion that political rights should not be reserved for citizens.

recognition for social justice (Fraser and Honneth, 2003). Both, in a similar vein, hinge on ideas from the much-related framework of relational egalitarianism, which takes the aim of justice to be the securement of equal and respectful relations between individuals (Anderson, 1999; Scheffler, 2003).

The respect argument takes off from the moral assumption that we have a duty – of justice, some would claim – to respect other individuals. This duty is non-reciprocal in that although this duty also entails that others respect you, the respect owed to others from you does not depend on their reciprocal respect for you (Seglow, 2009). Hence, respect for other persons, simply due to their equal moral standing grounded in personhood, is an omnipresent, self-standing moral demand. Upon this assumption, the respect argument proceeds with the claim that not granting long-term immigrants the status of citizenship is a case of failing to live up to the duty of respect for their personhood. This is so because citizenship ‘does not simply involve enjoying some extra rights denied to non-citizens; at root it involves having a standing which non-citizens (including citizens in other states) lack’ (Seglow, 2009: 797). The respect argument thus feeds into the rights-based premise of the argument, and thus justifies the inclusion thesis (Seglow, 2009; Mason, 2014). As nicely summarized by Seglow, the respect argument appeals ‘to the moral wrong involved in withholding the title of citizenship to those who have, by virtue of their residence, almost all the rights of citizenship, and it says that this sends migrants a message of disrespect’ (Seglow, 2009: 798).

Special ties

In addition to democratic inclusion and respect, theorists often strengthen the grounds for the inclusion thesis by referring to the special ties that immigrants grow over time

to the society in which they reside. Carens especially emphasizes this in the form of his social ties argument (Carens, 2005; 2013). ‘As adult immigrants settle into their new home’, Carens argues, ‘they become involved in a network of relationships that multiply and deepen over time’ (Carens, 2013: 50). At some point, the immigrant passes a threshold at which their interests in living in their new society are so strong that they are de facto members and therefore are entitled to citizenship. Children of citizens, Carens observes, require automatic citizenship at birth. They do so because we assume for them a strong social tie as they grow into societal membership. There is no reason not to assume the same for children of long-term immigrants. However, if that is so, we should acknowledge that even first-generation immigrants also grow social ties, and thus the longer the residence the weightier their normative demand for citizenship.

Other theorists similarly emphasise the importance of the growing of special ties over time. Recent work within republican political theory similarly argues that length of residence is likely to correlate with the exit costs of leaving the country because one’s life becomes rooted in the new territory. This gradually makes immigrants more vulnerable to domination because denizenship is a status that the state can forcibly transform. Thus, as time goes by, immigrants have a stronger claim to citizenship because their vulnerability increases (Benton, 2014; Hovdal-Moan, 2014).

Alongside the development of social ties over time, Rogers Smith observes that nation-states significantly contribute to the shaping of identities of people subjected to their coercive institutional structures and policies. This has implications, Smith concludes, for the right to citizenship for all ‘quasi-citizens’ (Smith 2017). The longer time of residence in a democratic nation-state, the more

people will be subject to social institutions and policies that will shape their identities, and through this coercive constitution over time, their right to citizenship grows stronger. Thus, particularly for immigrants, the implication is that length of residence determines the strength of the moral claim for citizenship. As Smith concludes, ‘the principle elaborated here implies that long-term resident aliens have very strong claims to citizenship indeed’ (2017: 830).

The special ties argument takes side with the democratic inclusion argument but is clearly distinct. Where the democratic inclusion argument grounds a right to citizenship immediately simply qua residence, the special ties argument tells us that the normative justification of this right grows stronger as length of residence increases.

Contributory reciprocity and duties

There is another well-known argument that, like the argument above, stresses the right of immigrants to acquire citizenship, but only on the condition of a necessary contribution on their part. This is known as the contribution argument (Seglow, 2009: 790), and although it is rarely discussed in the academic debate, it is a common staple of national public debates. The contribution argument entails that long-term immigrants have a right to be included as citizens of the state in which they reside, but only because they made an effort to contribute to that society. That is, the host state now owes immigrants the status of citizenship out of its duty of moral reciprocity. This argument therefore feeds into the rights-based side of the ecumenical argument, but only conditionally; and before doing so, it feeds in a more direct fashion into the duty-based side. That is, before the immigrants deserve the right to citizenship from contributory reciprocity, there comes a duty to actually contribute to society in the

host state. The duty to contribute must employ a fairly broad conception of contribution, so that it is not only taxation contributions from paid work, but likewise the social contribution of non-working parents in taking care of their children; and voluntary social-beneficial work (Seglow, 2009: 791). If contribution is taken narrowly to only include taxation contributions, the opportunity to fulfil this duty would be unfairly discriminatory.

Social cohesion

The most common concern about automatic citizenship is that it runs the risk of threatening social cohesion. The social cohesion concern is widely shared, but is nicely captured in its general form by Sune Lægaard in the following standardization:

(i) Social cohesion is a political value; (ii) easy access to citizenship through naturalisation disrupts social cohesion; (iii) therefore, there is a *pro tanto* reason to strengthen conditions for citizenship through naturalisation (Lægaard, 2010). This is a general form of the argument which can be fleshed out in several more specific terms, but even in its general version, it is clear that it serves to ground and place weight on the *adaptation thesis*. Most commonly, we see the social cohesion argument fleshed out in more specific terms, distinguishing between cultural and political cohesion, to capture the value-base for Premise (2).

Liberal nationalists such as David Miller and Will Kymlicka have a cultural reading of the premise and argue that social justice and democracy are strengthened by a common public culture and shared national identity, and are thus possibly threatened by the cultural heterogeneity that automatic naturalisation would bring about (Kymlicka, 2001: 334-335; Kymlicka, 2006; Miller, 2008; 1995).

Conditional naturalisation can be justified to the extent that it promotes a shared

public culture and national identity without compromising liberal principles (Hansen, 2010; Kymlicka, 2001: 39-41). On a political reading of the premise, the social cohesion argument stresses the necessity of wide political participation, and from that, the duty this places on immigrants to take upon themselves the responsibility of political agency that is immanent in the exercise of citizenship (Hampshire, 2010: 84-86; Mason, 2014; Miller, 2008; Lægaard, 2010; De Schutter and Ypi, 2015). This is plausible because the political responsibilities in voting, deliberating and forming qualified, impartial opinions about key public issues is among the core civic qualities that underlie a stable, well-functioning democracy and the securing of mutual liberty (Honohan, 2010; Kymlicka, 2001: 294-300). Of course, this also places a duty (and a corresponding right) on immigrants to engage in learning the language and some form of civic education in order to acquire the necessary capabilities for exercising good citizenship (Hampshire, 2010: 88-89; Miller, 2008: 385).

There is another way to unfold the social cohesion argument in defence of conditional naturalisation. In reference to Elizabeth Anderson's relational egalitarianism, it is of central importance for social integration that people from different significant groups are able to participate on terms of equality in all societal domains (Anderson, 2010: 16-21). In so far as the conditions for naturalisation are designed so as to facilitate a social basis for equal participation, conditional naturalisation would be defensible, and even preferable, on this account.

Even the strongest proponents of automatic naturalisation accept social cohesion arguments in one form or the other (Carens, 2005: 385; De Schutter and Ypi, 2015: 246-47; Honohan, 2010). Commonly, this social cohesion argument leads theorists to defend conditional naturalisation, where citizenship is granted only on the condition of passing certain integration requirements, but this need not be the case. De

Schutter and Ypi argue that the social cohesion argument, when accepted alongside the democratic inclusion argument, moves us towards mandatory citizenship that will not only grant immigrants citizenship automatically but also demand that the appropriate political duties are placed upon them (De Schutter and Ypi, 2015: 248).

TOWARDS DISCOUNTING-CONDITIONAL NATURALISATION

As introduced above, many political theorists struggle to make a choice between automatic or conditional naturalisation because they cannot wholly dismiss either rights-based or duty-based arguments as relevant and legitimate. Automatic naturalisation has obvious advantages since what immigrants are owed in the name of justice is here immediately given to them without discrimination, disrespect or lack of democratic inclusion. Yet opening up for unrestricted inclusion of immigrants would likely come at some cost to social cohesion and would arguably put significantly milder pressure on immigrants to fulfil their duties as reciprocal contributors to a society's values. Conditional naturalisation, on the other hand, gives immigrants incentives to make an effort to live up to civic duties. Yet it will also very often threaten immigrants' rights to inclusion, because the conditions need to be relatively demanding, and the distribution of citizenship will be unfair as immigrants will have different dispositions for meeting the demands. Thus, the reasons grounding the inclusion thesis and the adaptation thesis, respectively, cannot work together in favour of any of these two models of naturalisation.

Instead, we propose a model – illustrated by the figure below – that combines automatic and conditional elements, making it possible to accommodate both the inclusion and adaptation theses. This is possible because automatic and conditional naturalisation are not conceptual opposites. As noted earlier, automatic is

not the same as unconditional, since it can incorporate requirements that call for minimal effort (such as waiting). It is indeed possible to construct a model in which it is possible to acquire permanent residence and citizenship by either waiting *or* by fulfilling certain integration requirements. However, if integration requirements are to be effective (i.e., create an incentive), something would have to be gained by fulfilling them. We propose that a shortened waiting period should be granted in return. Thus, if one can fulfil certain requirements, one can acquire permanent residence or citizenship earlier than those who cannot. However, everybody has the choice of waiting. Ultimately, everyone will have the possibility of naturalisation. Not least, everyone will know that the system aims at inclusion, sending a strong welcoming signal to immigrants.

Finally, for two reasons, we propose having the integration requirements decrease in demandingness over time until the point at which nothing is required. First, because the claim to citizenship from democratic inclusion, respect, and special ties gain strength as the period of residence increases while the other duty-based arguments do not (they might even lose strength). Second, because all immigrants, independent of their dispositions, should have a reasonable chance to shorten their waiting period and receive their new status as a recognition of their own effort – although those less able to fulfil the initial, more demanding requirements will have to wait longer. This arguably makes it a more meaningful experience.³

On the face of it, this might appear counter-intuitive; at least in the case of linguistic competence and knowledge of society, which, in the normal course of

³ We recognize that it is likely contentious to say that it is a more meaningful experience. Randall Hansen argues that humans ‘value that for which we have worked more than that which is handed to us’ (Hansen, 2010: 26).

things, increases over time. Hence, as language and knowledge improves, requirements are relaxed. Yet, this only serves to strengthen the model, because both of these developments makes permanent residence and citizenship more accessible. What would in fact be counter-intuitive is if requirements were strengthened in tandem with immigrants becoming more socially integrated.

[INSERT FIGURE 1]

Our model of naturalisation suggests that ultimately permanent residence and citizenship should be automatically granted (Time 5 and Time 9 in the model, respectively) but that immigrants can shorten their waiting period by fulfilling certain requirements, the demandingness of which decrease over time. Here we only present the general blueprint. The model does not specify the exact initial demandingness of the integration requirements, nor which requirements should be used and exactly how much they should decrease in demandingness with each drop in the model. However, some criteria apply. First, the requirements used must be of a type that immigrants can accommodate by effort and are relevant for social cohesion. Thus, a language or employment requirement might be relevant while it is irrelevant and unfair to require, for example, specific blood ancestry. Second, the demandingness of requirements will depend on the extent of assistance immigrants receive from the state. All else equal, immigrants who receive considerable, easily accessible state assistance – e.g., language and job training – have a greater chance of fulfilling certain requirements compared to those who receive little assistance. Hence, what is reasonable for states to require after a certain period of residence depends on the level of assistance offered immigrants.

In addition, the model does not specify the exact length of residence before one can apply the first time (Time 1 in the model), the precise time intervals between each decrease in the demandingness of integration requirements (1 time unit in the figure for permanent residence; 2 time units for citizenship), the exact length of residence after which these legal statuses should be granted automatically (Times 5 and 9 in the model, respectively), nor whether naturalisation should be voluntary or mandatory in the end.

However, we do believe that the waiting period must be within certain boundaries in order to accommodate the democratic inclusion, respect, and special ties arguments. Moreover, every immigrant should have a reasonable chance to naturalize by meeting requirements before being entitled to naturalize. As argued above, this offers them the chance of receiving citizenship as a recognition of their own effort.

For example, Austrian citizenship law, which actually incorporates discounting in their model, operates with three thresholds: six years of residence for those who have made special efforts to integrate (e.g., having obtained a B2 language exam), 10 years for regular naturalization (one requirement is a B1 language exam) and entitlement to naturalization after 30 years residence. Thus, the Austrian rules reduce the demandingness of requirements over time to the point, after 30 years, of automatic naturalisation. Does this comply with our model? We believe not. Firstly, because the claim to citizenship from democratic inclusion, respect, and special ties arguably gain considerable strength well before 30 years of residence – on this, we join sides with Rogers Smith who concedes that, ‘just how long ‘long-term’ must be in order to justify assigning the state an obligation to confer citizenship, should it be desired, is a matter of judgement. But it is reasonable to hold that those resident half a

decade or more have weighty claims' (Smith 2017: 830). And secondly, because the Austrian rules do not allow all immigrants a reasonable chance to naturalize by meeting requirements since the requirements after 10 years of residence are still quite demanding.

Our model embeds integration requirements into a naturalisation process that is inherently inclusionary but does not commit to citizenship being mandatory. In the end, everyone will be given the opportunity to be included with the full rights of citizenship (perhaps except serial criminal offenders), secure from deportation and with the legal opportunity to participate in national politics. This sends a clear signal of respect since all know, from day one, that ultimately no lack of ability or personal circumstances can deny immigrants access to equal legal standing and democratic participation. Moreover, the model fits nicely with the special ties argument, such as fleshed out by Carens' social ties or Smith's coercively constituted identities, since the demandingness of integration requirements decreases over time in correlation with the cost for the immigrant of exiting the country as her social network and life prospects become increasingly tied to the country with the passage of time. However, the model *also* rewards ability and effort to integrate by reducing the residence requirement if certain integration requirements are fulfilled. This communicates, clearly and strongly, what civic qualities the national community particularly values and what it *expects* of immigrants in terms of adaptation.

In addition, the model seems to strengthen the social ties argument in a way that automatic naturalisation would not. Oberman (2017) argues that there is not a determinate relationship between length of residence and strength of social ties. Tourists, for example, might develop a social network and learn the language through repeated visits, while a long-term immigrant would not. However, integration

requirements will facilitate the establishment of certain kind of social ties that tourists and other transients cannot readily develop. Through participation in language programs, job training, and civic education immigrants form ties of interest and identity to the state, civil society and the job market. That is, ties that are not just about language and social network, which the socially minded, revisiting tourist can quickly develop. The model we propose aims to strengthen the social ties of immigrants, thus bolstering their claim to citizenship, while at the same time respecting the other right-based arguments by ultimately granting automatic access.

The combination of automatic and conditional elements naturally involves some degree of balancing between the values underlying the right-based and duty-based arguments. For instance, while a right-based defence of automatic naturalisation might offer citizenship after a relatively short period of residence, our model is committed to prolonging this period in order to make room for the integration requirements to serve the interest of the value of social cohesion. Hence, from a pure right-based perspective, the model seems to imply a necessary backlash of injustice. However, as the model is designed in the spirit of value pluralism – and is still a significantly improvement of justice in comparison to conditional naturalisation – this is no theoretical embarrassment.

Moreover, one independent argument in support of this model, which is different from the argument present in the literature on naturalisation but lends itself easily to considerations of fairness, is Fishkin's 'Bottlenecks' conception of equal opportunity as opportunity pluralism. In a nutshell, opportunity pluralism involves creating access to social goods through more than one route, so as to allow for people with different dispositions to gain more equal opportunities at a general level

(Fishkin, 2014: 16-17). This is exactly what the model for discounting-conditional naturalisation allows.

Discounting-conditional naturalisation is not a complete ideal-theory about citizenship or immigration. It is a suggestion for how to reconcile the ideal-theoretical reasons for acceptance of the inclusion thesis and the adaptation thesis, respectively. Consequently, it will not necessarily be the most ideal model of naturalisation – at least, we cannot argue that it should be. More modestly, we claim that the model is more aligned with the various reasons in the literature on naturalisation than its competitors are.

POSSIBLE OBJECTIONS

One might oppose this model for several reasons. Here we try to anticipate some. Specifically, that the model assumes no scarcity of citizenship; that it threatens social cohesion; that it gives unfair priority to the talented and well educated; that it conflicts with rules giving those with close ethnic or cultural ties easier access to citizenship; and, finally, that conditional naturalisation with the possibility of dispensation accomplishes the same. The following discusses them in this order.

As we have laid out the model here, we assume that there is no scarcity of citizenship – that is, we assume that granting all applicants unrestricted access to naturalisation after a certain length of residence will not overload the system and necessitate a preliminary prioritization between lawfully habitual residents about who will be allowed to apply. Although perhaps controversial, we do not believe the no scarcity assumption to be implausible. First, permanent residence and citizenship are non-rivalrous goods, meaning that granting such legal statuses to immigrants does not reduce the availability of the rights attached to others. Remember, no significant

social rights are attached to these legal statuses. Consequently, government expenditure does not increase by granting them and therefore no increase in taxes or reduction in benefits will result. Second, one could also believe that there is relevant scarcity in terms of the bureaucratic resources needed to process the applications. However, the case handling process is typically slowed down by qualifications that are difficult to document. This often has to do with establishing the identity of the immigrant because of missing or flawed documentation. It is generally not the case that qualifications attained in the receiving country (such as passing a language test or being employed for a certain amount of time) are difficult to document. Our model only pertains to the latter kind of documentation. Still, the naturalisation practice we envision might increase the number of applications, which might make it necessary to employ more caseworkers. This we see as a rather uncontroversial implication.

We also assume that our model will not relevantly threaten social cohesion. This is an empirical assumption that needs justification, but again, we think that it is highly plausible. The argument, on a cultural understanding of cohesion, could be that the model increases cultural diversity by making permanent residence and citizenship possible without (documented) adaptation. The assumption is that immigrants would rather wait for a longer period than try to accommodate integration requirements *and* that immigrants under conditional naturalisation will make a greater effort to adapt. Putting aside the question of whether cultural diversity is problematic (and at what level), existing studies, although few, are rather inconclusive on the effects of conditional naturalisation. Countries with more restrictive requirements do not seem to experience higher levels of national belonging, trust or employment among immigrants (see e.g., Ersanilli and Koopmans, 2011; Goodman and Wright, 2015). Thus, we have no reason to believe that motivation to adapt increases under

conditional naturalisation. Moreover, it seems equally plausible that immigrants would be more motivated to fulfil integration requirements if packaged in a clearly inclusionary model since there is no mistaking the intentions behind the rules.

A third objection could be that the model unfairly prioritizes the talented and the well-educated. By allowing a shorter residence requirement for those able and willing to accommodate certain integration requirements, the talented and well-educated are given a quicker route to the security and stability that permanent residence and citizenship offer. This is unfair because the less talented and educated might reasonably be so because of circumstances outside their control. Admittedly, offering conditions that favour some groups with certain characteristics over others does indeed set up a deservingness hierarchy, and since acquiring citizenship provides significant benefits, those who acquire it before others can accumulate advantages over a period. Hence, to the extent that the ability to fulfil integration requirements is independent of effort, such requirements should not guard access to permanent residence and citizenship. This is a strong principled objection, and our model will have to bite this bullet some of the way. However, our model does protect fairness in the sense that it will serve to secure effective access to citizenship for everyone and only on reasonable conditions – e.g., simply being a resident for a certain period of time. And, more particularly, in one respect the model directly serves fairness – or at least the part of fairness that refers to equality of opportunity, as explained in reference to Fishkin, by offering opportunity pluralism and hence lowering the pressure on the bottleneck for citizenship. Indeed, it seems doubtful that the fairness concern could be better accommodated by alternative models, without wholeheartedly disregarding the normative concerns on the other side, such as of social cohesion. Certainly, granting citizenship to immigrants by flipping a coin would in

principle be more *fair*, as it gives everyone an equal chance at the good, but for several reasons it is not the appropriate policy for naturalisation. It seems, then, that fairness is appropriate here only in balance with other normative concerns, and this is perfectly captured by the model of discounting-conditional naturalisation.

A possible fourth objection is that the model cannot collaborate with existing rules that prioritize non-citizen applicants with special ties by giving them easier access to citizenship – for example, those with close ethnic or cultural ties, certain family migrants or applicants of particular wanted professions. If countries wish to maintain special priorities for some particular applicants, it is important to note, firstly, that the model could be implemented as only part of the naturalisation system. Secondly, however, we suggest that the model of discounting-conditional naturalisation ought to replace such group-specific rules. Both because it would make the naturalisation process more fair and transparent, and because the model leaves no reason for prioritizing special ties. Rather than simply assuming that special ethnic, cultural, family or professional ties facilitate an easier process of integration, the model allows for special priority but only when this assumption is shown to be evidently true. In other words, if the process of integration is quicker and easier for immigrants with special ties, it should be easier for such immigrants to meet the discounting conditions, and thus the model will reward such applicants with a proportionally reduced waiting period.

The last objection we will consider here is that combining conditional naturalisation with extended possibilities for dispensation will be just as good a model as the one we propose. In fact, all Western countries today allow for dispensation from integration requirements if the applicant can document that it is entirely beyond their abilities to accommodate one or more of the requirements. This will often have

to do with serious physical or mental illness. However, if dispensation were possible for those who could demonstrate that they had indeed made a significant effort, relative to their abilities, to fulfil the integration requirements without being able to, would that not accomplish the same as our model? This solution, although preferable to conditional naturalisation with limited dispensation opportunities, is still problematic. First, the decision to grant dispensation will to a certain extent be discretionary, introducing concerns regarding arbitrariness and discrimination. Public servants tasked with deciding on dispensation would have to evaluate whether or not the applicant had indeed done all in her power to fulfil the integration requirements. This evaluation cannot avoid being discretionary to a certain extent. Thus, different public servants could possibly reach different conclusions on rather similar cases, and implicit or explicit bias towards certain types of applicants may affect their judgment without it being traceable in the final decision. Second, this solution is not inherently inclusionary, unlike the model we propose. It is highly likely that, even with expanding the dispensation opportunities, there will remain a group of immigrants not eligible for dispensation because they cannot convince the state that they have indeed done all in their power to meet the requirements. Thus, this solution will likely result in long-term, habitual residents without access to permanent residence and/or citizenship.

CONCLUSION

If people agree about the relevant normative arguments related to a specific policy area, it seems peculiar that there should be strong normative disagreement on what is the appropriate political arrangement. Nonetheless, this seems to be the case with regard to naturalisation policy. This is what has intrigued us into providing the

argument in this paper. Our central claim, restated, was that the normative reasons people refer to in defence of opposite naturalisation policies – democratic inclusion, respect, special ties, contributory reciprocity, and social cohesion – are not necessarily in opposition, and we have argued that the model of discounting-conditional naturalisation consistently complies with this complete set of normative reasons. It seems thus that our proposal in this article – that we employ the model of discounting-conditional naturalisation as our policy for granting citizenship – seems elegantly to smooth the waters between the battleships for automatic and conditional naturalisation.

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Table 1. The two ecumenical arguments

The automatic naturalisation argument	The conditional naturalisation argument
1. The inclusion thesis: Immigrants who are lawful, long-term residents in a state territory should be naturally included as citizens of that state.	1. The adaptation thesis: Immigrants who are lawful, long-term residents in a state territory should make an effort to adapt themselves to the social and political circumstances of that state.
2. This is so because long-term immigrants have a right to citizenship towards the state.	2. This is so because long-term immigrants have civic duties towards the state.
3. Therefore, long-term immigrants should be granted citizenship automatically.	3. Therefore, long-term immigrants should be granted citizenship conditionally.

Figure 1. Illustration of the model for discounting-conditional naturalisation